IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

RP.No. 602 of 2007()

AGAINST THE JUDGEMENT/ORDER IN OP.29551/2002 Dated 18/10/2006

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REVIEW PETITIONER:

SHEHSAD, AGED 24, S/O. SAINULABDEEN, SANA RESIDENCY, GRAFFF HILL, SREEKARYAM P.O., THIRUVANANTHAPURAM, REPRESENTED BY POWER OF ATTORNEY HOLDER SHAHUL HAMEED, AGED 63 YEARS, KANNIMEL VEEDU, MAYANADU P.O., KOLLAM 15

BY ADV. SRI.V.V.RAJA
SRI.R.RENJITH

RESPONDENTS: PETITIONER & RESPONDENTS IN OP

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1. K. SHEREFFUDDIN, SON OF SIMKUNJU, SWASTHAM, ABRABIA MANZIL PEROORCHERRY, KOTTAMNKARA VILLAGE, KOLLAM DIST PIN 691 005

2. THE CHIEF SECRETARY, GOVT. OF KERALA, TRIVANDRUM.

3. THE DISTRICT COLLECTOR, KOLLAM 691 005

4. THE REVENUE DIVISIONAL OFFICER, KOLLAM

5. THE TAHSILDAR, REVENUE RECOVERY, KOLLAM.

6. THE VILLAGE OFFICER, VILLAGE OFFICE, KOLLAM

7. MR. SAINULABUDDIN, SON OF ALI KUNJU, GANAPATHIYAM VILAVEETTIL, PEROORCHERY, KOTAMANKARA VILLAGE, KOLLAM DIST.

8. MR. JALALUDDIN, K., SON OF K. KASIM KUNJU (LATE), PARAMBIL HOUSE, NILAMEL VILLAGE, KOLLAM DIST.

R1 BY ADV. SRI.P.BALACHANDRAN (SR.)
SRI.P.A.HARISH

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

R.P.NO. 602 OF 2007 in
O.P. NO. 29551 OF 2002

Dated this the 3rd day of August, 2007

O R D E R

Original Petition was filed by a person who was a defaulter of arrears of sales tax and a debtor to Syndicate Bank. In recovery proceedings, his property was sold to the 7th respondent in the O.P. When the Original Petition came up for hearing, it was reported that petitioner in the O.P. and the purchaser of the property, namely, 7th respondent, had settled the matter between them. Further, petitioner in the O.P. undertook to clear the arrears of tax with reduced interest under the Amnesty Scheme. In the circumstances, O. P. was allowed vide judgment dated 18.10.2006.

2. Petitioner in the Review Petition has now submitted that facts stated or assumed by Court are clearly wrong in as much as the 7th respondent in the O.P. during the pendency of the Original Petition sold the property to the Review Petitioner. Counsel appearing for the 8th respondent in the Review Petition, who is the 7th respondent in the

O.P. submitted that he had not made any representation in Court. In any case, since counsel appearing for the 7th respondent in the O.P. and counsel appearing for him in the Review Petition being different, this is a matter which cannot be decided in Review Petition. In any case, the grounds stated in the Review Petition as such have to be allowed by recalling the judgment, because facts based on which judgment was rendered are clearly wrong. In the circumstances, Review Petition is allowed vacating the judgment and restoring the O.P. to file. It will be open to the Review Petitioner to initiate appropriate action against the 8th respondent in the Review Petition for selling the property during the pendency of the O.P. without approval from the Court.

(C.N.RAMACHANDRAN NAIR)
Judge